

Notice of Allowability	Application No.	Applicant(s)	
	09/760,426	LEGARE, DAVID J.	
	Examiner	Art Unit	
	Alicia Chevalier	1772	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. This communication is responsive to amendment under 37 C.F.R. 1.312 and Ex parte Quayle filed August 9, 2004.
2. The allowed claim(s) is/are 6,8-12 and 14.
3. The drawings filed on 12 January 2001 are accepted by the Examiner.
4. Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All
 - b) Some*
 - c) None
 of the:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) hereto or 2) to Paper No./Mail Date _____.
 - (b) including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. Notice of References Cited (PTO-892)
2. Notice of Draftperson's Patent Drawing Review (PTO-948)
3. Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. Notice of Informal Patent Application (PTO-152)
6. Interview Summary (PTO-413),
Paper No./Mail Date _____.
7. Examiner's Amendment/Comment
8. Examiner's Statement of Reasons for Allowance
9. Other _____.

REASONS FOR ALLOWANCE

1. The following is an examiner's statement of reasons for allowance:

The base claims are: 6 and 8.

The closest prior art found is summarized as follows:

Sugahara et al. (U.S. Patent No. 4,018,616) discloses a water glass composition used of production of various molded articles, such as walls, doors, roofs etc. (*col. 13, lines 46-60*). Sugahara further discloses a fire protective composition useful in walls comprising water glass composed of silicate solution that is about 40% solids, 60% water, and having a SiO₂:Na₂O ratio in the range of about 2:1 to 4:1, specifically 3.5:1 to 3.75:1 (*col. 10, lines 39-60 and col. 12, lines 43-58*), polyvalent metal, specifically magnesium chloride (*col. 33, lines 63-64*), and an agent for binding free water, specifically calcium oxide (*col. 12, lines 31-37*).

The prior art fails to teach or suggest, alone or in combination, the recited fire protective container of claim 6 comprising the claimed outer wall, intermediate wall and an inner wall composed of dibasic and tribasic sodium phosphate and water. The prior art also fails to teach or suggest, alone or in combination, the recited fire protective container of claim 8 comprising an outer wall with the claimed composition, water glass composed of a claimed sodium silicate solution, calcium chloride, disbasic sodium phosphate, calcium metasilicates and propylene glycol.

In sum, the prior art of record fails to teach or suggest fire protective contained having all the features of the base claims.

2. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue

fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia Chevalier whose telephone number is (571) 272-1490. The examiner can normally be reached on Monday through Friday from 8:00 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon, can be reached on (571) 272-1498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ac

8/19/04


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1772

8/20/04